

AMENDED IN SENATE JUNE 22, 2004

AMENDED IN SENATE JUNE 10, 2004

AMENDED IN ASSEMBLY MAY 20, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

## ASSEMBLY BILL

**No. 2450**

**Introduced by Assembly Member Canciamilla**

February 19, 2004

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An act to amend Section 6609.1 of the Welfare and Institutions Code, relating to mental health.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2450, as amended, Canciamilla. Sexually violent predators: notice.

Existing law requires the State Department of Mental Health to notify local law enforcement officials when it makes a recommendation to the court for community outpatient treatment for any person committed as a sexually violent predator, or when it is aware that such a person has petitioned a court for release to the community.

This bill would, in addition, require notice to be given when the department or its designee makes a recommendation regarding a state-operated forensic conditional release program or proposes a placement location without making a recommendation, *in the case of a subsequent placement or change of community placement*, or when any other person proposes a placement location to the court and the department or its designee is made aware of the proposal. The bill would require the notice to include, among other things, the date, place, and time of the court hearing, would authorize the local agencies to provide

written comment to the department and the court, would require the department to issue a written statement, and would require the court to consider those comments and statements. *The bill would permit a single agency in the community of the proposed placement to suggest alternate locations within that community.* This bill would delete the prohibition against notice being given after the release date.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 6609.1 of the Welfare and Institutions  
2 Code is amended to read:  
3 6609.1. (a) (1) When the State Department of Mental Health  
4 makes a recommendation to the court for community outpatient  
5 treatment for any person committed as a sexually violent predator,  
6 or when a person who is committed as a sexually violent predator  
7 pursuant to this article has petitioned a court pursuant to Section  
8 6608 for conditional release under supervision and treatment in the  
9 community pursuant to a conditional release program, or has  
10 petitioned a court pursuant to Section 6608 for subsequent  
11 unconditional discharge, and the department is notified, or is  
12 aware, of the filing of the petition, and when a community  
13 placement location is recommended or proposed, the department  
14 shall notify the sheriff or chief of police, or both, the district  
15 attorney, or the county's designated counsel, that have jurisdiction  
16 over the following locations:  
17 (A) The community in which the person may be released for  
18 community outpatient treatment.  
19 (B) The community in which the person maintained his or her  
20 last legal residence as defined by Section 3003 of the Penal Code.  
21 (C) The county that filed for the person's civil commitment  
22 pursuant to this article.  
23 (2) The department shall also notify the Sexually Violent  
24 Predator Parole Coordinator of the Department of Corrections, if  
25 the person is otherwise subject to parole pursuant to Article 1  
26 (commencing with Section 3000) of Chapter 8 of Title 1 of Part 3  
27 of the Penal Code.  
28 (3) The notice shall be given when the department or its  
29 designee makes a recommendation under subdivision (e) of



1 Section 6608 or proposes a placement location without making a  
2 recommendation, or when any other person proposes a placement  
3 location to the court and the department or its designee is made  
4 aware of the proposal.

5 (4) The notice shall be given at least 15 days prior to the  
6 department's submission of its recommendation to the court in  
7 those cases in which the department recommended community  
8 outpatient treatment under Section 6607, or in which the  
9 department or its designee is recommending or proposing a  
10 placement location, or in the case of a petition or placement  
11 proposal by someone other than the department or its designee,  
12 within 48 hours after becoming aware of the petition or placement  
13 proposal.

14 (5) The notice shall state that it is being made under this section  
15 and include all of the following information concerning each  
16 person committed as a sexually violent predator who is proposed  
17 or is petitioning to receive outpatient care in a conditional release  
18 program in that city or county:

19 (A) The name, proposed placement address, date of  
20 commitment, county from which committed, proposed date of  
21 placement in the conditional release program, fingerprints, and a  
22 glossy photograph no smaller than 3 1/8 X 3 1/8 inches in size, or  
23 clear copies of the fingerprints and photograph.

24 (B) The date, place, and time of the court hearing at which the  
25 location of placement is to be considered and a proof of service  
26 attesting to the notice's mailing in accordance with this  
27 subdivision.

28 (C) A list of agencies that are being provided this notice and the  
29 addresses to which the notices are being sent.

30 (b) Those agencies receiving the notice referred to in  
31 paragraphs (1) and (2) of subdivision (a) may provide written  
32 combined and consolidated comment to the department and the  
33 court regarding the impending release, placement, location, and  
34 conditions of release. *In addition, a single agency in the*  
35 *community of the specific proposed or recommended placement*  
36 *address may suggest appropriate, alternative locations for*  
37 *placement within that community.* The State Department of Mental  
38 Health shall issue a written statement to the commenting agencies  
39 and to the court within 10 days of receiving the written comments  
40 with a determination as to whether to adjust the release location or

1 general terms and conditions, and explaining the basis for its  
2 decision.

3 (c) The agencies' comments and department's statements shall  
4 be considered by the court which shall, based on those comments  
5 and statements, approve, modify, or reject the department's  
6 recommendation or proposal regarding the community or specific  
7 address to which the person is scheduled to be released or the  
8 conditions that shall apply to the release if the court finds that the  
9 department's recommendation or proposal is not appropriate.

10 (d) (1) When the State Department of Mental Health makes a  
11 recommendation to pursue recommitment, makes a  
12 recommendation not to pursue recommitment, or seeks a judicial  
13 review of commitment status pursuant to subdivision (f) of Section  
14 6605, of any person committed as a sexually violent predator, it  
15 shall provide written notice of that action to the sheriff or chief of  
16 police, or both, and to the district attorney, that have jurisdiction  
17 over the following locations:

18 (A) The community in which the person maintained his or her  
19 last legal residence as defined by Section 3003 of the Penal Code.

20 (B) The community in which the person will probably be  
21 released, if recommending not to pursue recommitment.

22 (C) The county that filed for the person's civil commitment  
23 pursuant to this article.

24 (2) The State Department of Mental Health shall also notify the  
25 Sexually Violent Predator Parole Coordinator of the Department  
26 of Corrections, if the person is otherwise subject to parole pursuant  
27 to Article 1 (commencing with Section 3000) of Chapter 8 of Title  
28 1 of Part 3 of the Penal Code. The notice shall be made at least 15  
29 days prior to the department's submission of its recommendation  
30 to the court.

31 (3) Those agencies receiving the notice referred to in this  
32 subdivision shall have 15 days from receipt of the notice to provide  
33 written comment to the department regarding the impending  
34 release. Those comments shall be considered by the department,  
35 which may modify its decision regarding the community in which  
36 the person is scheduled to be released, based on those comments.

37 (e) (1) If the court orders the release of a sexually violent  
38 predator, the court shall notify the Sexually Violent Predator  
39 Parole Coordinator of the Department of Corrections. The  
40 Department of Corrections shall notify the State Department of

1 Mental Health, the sheriff or chief of police, or both, and the  
2 district attorney, that have jurisdiction over the following  
3 locations:

4 (A) The community in which the person is to be released.

5 (B) The community in which the person maintained his or her  
6 last legal residence as defined in Section 3003 of the Penal Code.

7 (2) The Department of Corrections shall make the notifications  
8 required by this subdivision regardless of whether the person  
9 released will be serving a term of parole after release by the court.

10 (f) If the person is otherwise subject to parole pursuant to  
11 Article 1 (commencing with Section 300) of Chapter 8 of Title 1  
12 of Part 3 of the Penal Code, to allow adequate time for the  
13 Department of Corrections to make appropriate parole  
14 arrangements upon release of the person, the person shall remain  
15 in physical custody for a period not to exceed 72 hours or until  
16 parole arrangements are made by the Sexually Violent Predator  
17 Parole Coordinator of the Department of Corrections, whichever  
18 is sooner. To facilitate timely parole arrangements, notification to  
19 the Sexually Violent Predator Parole Coordinator of the  
20 Department of Corrections of the pending release shall be made by  
21 telephone or facsimile and, to the extent possible, notice of the  
22 possible release shall be made in advance of the proceeding or  
23 decision determining whether to release the person.

24 (g) The notice required by this section shall be made whether  
25 or not a request has been made pursuant to Section 6609.

26 (h) The time limits imposed by this section are not applicable  
27 when the release date of a sexually violent predator has been  
28 advanced by a judicial or administrative process or procedure that  
29 could not have reasonably been anticipated by the State  
30 Department of Mental Health and where, as the result of the time  
31 adjustments, there is less than 30 days remaining on the  
32 commitment before the inmate's release, but notice shall be given  
33 as soon as practicable.

34 (i) *In the case of any subsequent community placement or*  
35 *change of community placement of a conditionally released*  
36 *sexually violent predator, notice required by this section shall be*  
37 *given under the same terms and standards as apply to the initial*  
38 *placement, except in the case of an emergency where the sexually*  
39 *violent predator must be moved to protect the public safety or the*  
40 *safety of the sexually violent predator. In the case of an emergency,*

1 *the notice shall be given as soon as practicable, and the affected*  
2 *communities may comment on the placement as described in*  
3 *subdivision (b).*

4 (j) The provisions of this section are severable. If any provision  
5 of this section or its application is held invalid, that invalidity shall  
6 not affect other provisions or applications that can be given effect  
7 without the invalid provision or application.

